



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 175041

PRELIMINARY RECITALS

Pursuant to a petition filed on June 17, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Shawano County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on July 21, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services correctly calculated the Petitioner's FoodShare benefits, effective July 1, 2016.

NOTE: The record was held open for one day to allow the county agency to supplement the record. The agency submitted the following:

- Exhibit 3 – Notice of Decision dated December 24, 2014
- Exhibit 4 – Notice of Proof Needed dated June 10, 2015
- Exhibit 5 – Notice of Decision dated June 16, 2015
- Exhibit 6 – Notice of Decision dated May 27, 2016
- Exhibit 7 – Notice of Decision dated June 7, 2016
- Exhibit 8 – Notice of Proof needed dated July 8, 2016
- Exhibit 9 – Notice of FoodShare supplement
- Exhibit 10 – Case Comments
- Exhibit 11 – Budget Screen printouts form November 2014 through September 2016.

The Petitioner submitted a letter post-marked August 4, 2016. It has been marked as Exhibit 12 and entered into the record.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651

Madison, WI 53703

By: [REDACTED] Economic Support Lead Worker
Shawano County Department of Human Services
607 E. Elizabeth St.
Shawano, WI 54166

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

Division of Hearings and Appeals

FINDINGS OF FACT

1. On May 26, 2016, the Petitioner contacted the agency to complete a renewal for FoodShare benefits. (Exhibit 10)
2. On May 27, 2016, the agency sent the Petitioner a Notice of Proof Needed, requesting verification of his payments for his guardianship by June 6, 2016. (Exhibit 6)
3. The agency did not receive the requested verification by June 6, 2016. (Exhibit 10)
4. On June 7, 2016, the agency sent the Petitioner a notice indicating that he would receive Foodshare benefits in the amount of \$16.00 per month, beginning July 1, 2016. (Exhibit 7)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 17, 2016. (Exhibit 1)
6. The Petitioner has a household of one person. He pays rent in the amount of \$315.00 per month, which includes heat and electricity. (Testimony of Petitioner)
7. The Petitioner incurs a phone expense. (Testimony of Petitioner)
8. The Petitioner received \$988 per month in Social Security Disability benefits. (Exhibit 7; testimony of Petitioner)

DISCUSSION

Petitioner filed an appeal, because he disagrees with the agency's determination that he is entitled to \$16.00 per month in FoodShare benefits, effective July 1, 2016.

To determine Petitioner's FoodShare allotment, the agency must calculate his net income, using only the following deductions (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people,
\$168 for four people
\$197 for five people
\$226 for six or more people

7 CFR § 273.9(d)(1)

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

Petitioner has no earned income, so this would not apply to him.

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

The Petitioner states that he is entitled to a deduction for an outstanding medical bill in the amount of \$7,195.00 from Shawano County DCP. (Exhibit 2) The Petitioner testified that he actually pays \$75.00 per month towards that debt.

Looking at the case comments it appears the agency processed verification of that expense on December 23, 2014, and decided to allow the \$7195.00 expense, at \$450 per month, beginning January 2015.¹

\$7195 divided by \$450 per month, works out to be about 16 months; so the Petitioner has used up the expense and can no longer use it as a deduction, since at least 16 months have passed since January 2015. (See FSH §4.6.4.3, “Amounts still due after they were budgeted during a previous certification period may not be included as part of the monthly expense.”)

Petitioner reported no other out of pocket medical expenses.

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and

Petitioner did not report any dependent care expenses.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

It is undisputed that the only utility expense the Petitioner has is a phone bill, so he is allowed the PUA of \$30.00.

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household, like Petitioner’s, has an elderly, blind or disabled member.²

¹ Allowing the \$7,195.00 expense, at a rate of \$450 per month, resulted in the Petitioner’s net income dropping to zero, so he could receive the full FoodShare benefit of \$194 per month through June 2015. Then after Petitioner’s rent decreased to \$311 per month, allowing the \$7,195.00 expense at a rate of \$450 per month, resulted in a net income that resulted in benefit of \$108 per month through June 2016. (Lower rent, generally results in lower FoodShare benefits)

² The term ‘disabled’ is a term with a definition as to the FoodShare program:

FSH, §§ 4.6.7.1 and 8.1.3.

The Petitioner testified about other expenses he had, in particular a fee he has to pay to maintain a guardianship for himself. However, the costs of maintaining a guardianship are not an allowable deduction under *FSH* §4.6

Applying the deductions that are allowed under *FSH* § 4.6 to Petitioner's gross income we have the following net income calculation for July 2016:

Gross Income	\$988.00	Rent	\$315.00
No Earned Income Deduction		PUA	+\$30.00
Standard Deduction	-\$155.00	50% Net income	- \$416.50
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$0.00
<hr/>		<hr/>	
Net Income	\$833.00		
Excess Shelter Expense	-\$0.00		
<hr/>		<hr/>	
Total Net Income	\$833.00		

Households of one with net income of \$833.00 are eligible for FoodShare benefits in the amount of \$16.00 per month. *FSH* §8.1.2 As such, the agency correctly determined the Petitioner's Foodshare allotment for July 2016 going forward.

Petitioner asserts that he simply cannot buy enough healthy food to recover from his injuries with a \$16.00 allotment. However, FoodShare allotments are determined solely based upon the criteria discussed above. Consideration of personal circumstances is not permissible under the current FoodShare regulations.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's FoodShare benefits effective July 1, 2016, going forward.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).
FSH, §3.8.1.1.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

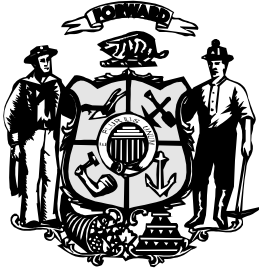
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of August, 2016

\s _____
Mayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 11, 2016.

Shawano County Department of Social Services
Division of Health Care Access and Accountability